

1-1 By: Turner of Harris, et al. H.B. No. 1318
1-2 (Senate Sponsor - Whitmire)
1-3 (In the Senate - Received from the House May 10, 2013;
1-4 May 10, 2013, read first time and referred to Committee on Criminal
1-5 Justice; May 15, 2013, reported favorably by the following vote:
1-6 Yeas 6, Nays 0; May 15, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Carona		X	
1-12	Hinojosa	X		
1-13	Patrick	X		
1-14	Rodriguez	X		
1-15	Schwertner	X		

1-16 A BILL TO BE ENTITLED
1-17 AN ACT

1-18 relating to the appointment of counsel to represent certain youths
1-19 and indigent defendants.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Article 26.044, Code of Criminal Procedure, is
1-22 amended by amending Subsection (j) and adding Subsections (j-1) and
1-23 (j-2) to read as follows:

1-24 (j) A public defender's office may not accept an appointment
1-25 under Article 26.04(f) if:

1-26 (1) a conflict of interest exists that has not been
1-27 waived by the client;

1-28 (2) the public defender's office has insufficient
1-29 resources to provide adequate representation for the defendant;

1-30 (3) the public defender's office is incapable of
1-31 providing representation for the defendant in accordance with the
1-32 rules of professional conduct;

1-33 (4) the acceptance of the appointment would violate
1-34 the maximum allowable caseloads established at the public
1-35 defender's office; or

1-36 (5) [~~(4)~~] the public defender's office shows other
1-37 good cause for not accepting the appointment.

1-38 (j-1) On refusing an appointment under Subsection (j), a
1-39 chief public defender shall file with the court a written statement
1-40 that identifies any reason for refusing the appointment. The court
1-41 shall determine whether the chief public defender has demonstrated
1-42 adequate good cause for refusing the appointment and shall include
1-43 the statement with the papers in the case.

1-44 (j-2) A chief public defender may not be terminated,
1-45 removed, or sanctioned for refusing in good faith to accept an
1-46 appointment under Subsection (j).

1-47 SECTION 2. Section 51.101(a), Family Code, is amended to
1-48 read as follows:

1-49 (a) If an attorney is appointed under Section 54.01(b-1) or
1-50 (d) to represent a child at the initial detention hearing and the
1-51 child is detained, the attorney shall continue to represent the
1-52 child until the case is terminated, the family retains an attorney,
1-53 or a new attorney is appointed by the juvenile court. Release of
1-54 the child from detention does not terminate the attorney's
1-55 representation.

1-56 SECTION 3. Section 54.01, Family Code, is amended by adding
1-57 Subsection (b-1) and amending Subsection (d) to read as follows:

1-58 (b-1) Unless the court finds that the appointment of counsel
1-59 is not feasible due to exigent circumstances, the court shall
1-60 appoint counsel within a reasonable time before the first detention
1-61 hearing is held to represent the child at that hearing.

2-1 (d) A detention hearing may be held without the presence of
2-2 the child's parents if the court has been unable to locate them. If
2-3 no parent or guardian is present, the court shall appoint counsel or
2-4 a guardian ad litem for the child, subject to the requirements of
2-5 Subsection (b-1).

2-6 SECTION 4. Sections 51.101(a) and 54.01, Family Code, as
2-7 amended by this Act, apply only to a detention hearing that is held
2-8 for a child taken into custody on or after the effective date of
2-9 this Act.

2-10 SECTION 5. This Act takes effect September 1, 2013.

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